

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6110

BILL NUMBER: HB 1367

DATE PREPARED: Nov 2, 2001

BILL AMENDED:

SUBJECT: Firearms and Murder Sentences.

FISCAL ANALYST: Valerie Ruda

PHONE NUMBER: 232-9867

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Handgun Licenses* - This bill prohibits the issuance of a license to carry a handgun to a person who is on probation or parole. The bill makes it a Class A misdemeanor for a person who is on probation or parole to knowingly or intentionally possess a firearm.

Aggravating Circumstances - It makes the fact that: (1) a victim of a murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, firefighter, judge, or law enforcement officer; and (2) the murder was motivated by the victim's official status or former official status; an aggravating circumstance when a court is considering sentences for murder.

Effective Date: July 1, 2002.

Explanation of State Expenditures: *Aggravating Circumstances for Murder* - State expenditures would increase, indeterminably, if additional offenders are incarcerated in a state prison for longer periods of time (life without parole), or if more inmates are placed on death row for execution, in accordance with the provisions of this bill. The State would be responsible for 50% of the cost of two expert and experienced death penalty defense attorneys for each additional individual charged with murder under aggravating circumstances.

Background- There are currently 58 persons serving life without parole. Currently, such offenders are housed in the State Prison, Pendleton Correctional Facility, Women's Prison, Maximum Control, Westville Psychiatric Unit, and Wabash Valley Correctional Facility. The average annual operating cost of these facilities is \$20,833 per offender.

As of September 1, 2001, there were 39 persons under the death penalty in Indiana. The average appeal period for death row inmates who have been executed is 10.5 years. All death row inmates are housed at the State Prison. Death penalty case appeals may involve expenditures by state entities, including: (1) the Office

of the Attorney General; (2) the State Public Defender's Office; and (3) Supreme Court.

Explanation of State Revenues: *Handgun Licenses* - By prohibiting the handgun licensing of individuals on probation and parole, fewer permits would be issued annually by the State Police. (Currently, Legislative Services Agency has no definitive number of handgun licensees who fall into these two categories.) Fewer permits issued would result in an indeterminable annual revenue loss to the State.

The State Police charges a fee of \$15 for unlimited handgun licenses. Between 70,000 and 80,000 licenses are issued each year. Licensing fees are deposited into the state General Fund. As of 1999, there were approximately 106,000 individuals on probation (this number does not include juveniles) and in June 2001, there were approximately 5,514 individuals on parole (this number does not include juveniles) in the State of Indiana.

Class A Misdemeanor- In accordance with the provisions of this bill, an individual on either probation or parole in possession of a firearm would commit a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Handgun Licenses* - A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Aggravating Circumstances for Murder- Counties would experience an indeterminable increase in administrative time and cost regarding this provision of the bill. It is likely that counties would experience an increase in murder cases where the State is seeking the death penalty or life in prison without parole.

Currently in Indiana, individuals being tried for murder under statutory aggravating circumstances are entitled to two expert and experienced death penalty defense attorneys at a salary of approximately \$90,000 each. The county is liable for 50% of this cost while the State Public Defender's Office is responsible for the rest. In addition, the county is responsible to pay for defense costs regarding the following items: 1) expert testimony and 2) the sequestering of juries.

In addition, the county would experience an indeterminable increase in administrative time and cost for its local prosecution and law enforcement agencies that take part in court proceedings.

Explanation of Local Revenues: *Handgun Licenses* - By prohibiting the handgun licensing of individuals on probation and parole, local law enforcement agencies' licensing revenue would be reduced proportionately to that of the State Police. The current registration fee for local law enforcement agencies is \$10 per license. Registration fees are deposited into each law enforcement agency's firearms training fund or appropriate training activities funds.

If additional court actions occur and a guilty verdict is entered for the violation of a Class A misdemeanor, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the

county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: State Police; Public Defender's Office; Department of Corrections; Attorney General; Supreme Court.

Local Agencies Affected: Trial Courts, Local Law Enforcement.

Information Sources: Indiana Department of Corrections, *Offender Population Statistical Report for the Month of June, 2001*; Division of State Court Administration, *1999 Indiana Probation Report*; Stephen Johnson, Indiana Prosecuting Attorney's Council, (317) 232-1836.